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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/715,725	11/16/2000	Ying Luo	RIGL-008CIP	6653
24353	7590	10/20/2004	EXAMINER	
BOZICEVIC, FIELD & FRANCIS LLP 1900 UNIVERSITY AVE SUITE 200 EAST PALO ALTO, CA 94303			UNGAR, SUSAN NMN	
			ART UNIT	PAPER NUMBER
			1642	

DATE MAILED: 10/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/715,725

Applicant(s)

LUO ET AL.

Examiner

Susan Ungar

Art Unit

1642

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 May 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 25 May 2004. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☒ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☒ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: None.

Claim(s) objected to: None.

Claim(s) rejected: 26, 27, 29, 30 and 32.

Claim(s) withdrawn from consideration: 28 and 31.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

SUSAN UNGAR, PH.D.
PRIMARY EXAMINER

Susan Ungar
Primary Examiner
Art Unit 1642

Continuation of 2. NOTE: The new issues raised are drawn to the limitations newly added to claims 27 and 30 wherein the claims now recited the phrase "increases transcription from a P53 binding site control promoter" not previously considered. The same limitation adds no matter to the specification. Although applicant argues that there is support for the newly added limitations on page 33 lines 5 and 6 as well as on page 7, lines 8-9, a review of the suggested report reveals only support for activating P53 binding site controlled promoters on page seven and activation of P. 53 binding site controlled promoters on page 33. However the newly added limitations are drawn to increased transcription from a P53 binding site controlled promoter which is different in scope from the invention as taught to in the originally filed specification..

Continuation of 5. does NOT place the application in condition for allowance because:

As drawn to the interview of May 3, 2004, no interview summary was found in the file. Although Applicant states that in the interview of May 3, 2004, Examiner Eyler indicated that post-filing data relating to SEQ ID NO:8 or suitable reasoned would be sufficient to withdrawn the rejections, Applicant does not state that either Examiner Eyler or Examiner Ungar agreed to consider information not previously filed after Final Rejection. Given that the new information and references are not drawn to issues SOLELY raised by Examiner in the Final Rejection and Applicant has not provided good and sufficient reasons why the information was not previously presented, Examiner will not consider the newly submitted information/references.

Sine the arguments drawn to all rejections of pending claims 26-27, 29-30, 31 are drawn to either the newly amended claim limitations or to exhibits not considered, the arguments are considered moot and all rejections are maintained. .